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SUBJECT: COURT CONVICTS THAI ELECTION COMMISSION

REF: BANGKOK 4416 (PALACE APPROVES OCTOBER 15 THAI

ELECTION)

Classified By: CDA ALEX A. ARVIZU. REASON 1.4 (B,D)

[¶](#)1. (C) Summary. The three remaining members of the controversial Election Commission (EC) were convicted on July 25 by the Criminal Court of violating election law and sentenced to four years in jail. Thaksin's government has publicly conceded that they should be replaced, which is an important step toward ensuring that the timetable for the October 15 general election remains on track. With the conviction, one of the last hangovers from the annulled April 2 election is finally over. Unfortunately, the Criminal Court may be accused of taking political factors into consideration in some aspects of its decision. End Summary.

GUILTY, GUILTY, GUILTY

[¶](#)2. (SBU) In a scheduled press conference July 25, the Criminal Court announced that it had found all three remaining members of the Election Commission (EC) guilty of violating election law in their management of the (now-annulled) April 2 general election and subsequent by-elections. The charges, which had been filed by the opposition Democrat Party in mid-April, alleged that the EC had violated the criminal code and election law in allowing proxies of PM Thaksin's Thai Rak Thai (TRT) party to change constituencies for the by-election. The court dismissed the criminal malfeasance charge but found all three commissioners guilty of violating election law. They were sentenced to four years imprisonment with no suspension of sentence.

[¶](#)3. (C) Reports from the court and from government sources are still not entirely clear as of late Tuesday. We understand that the court denied the three bail, a decision which they immediately appealed. But it's too late. According to the broadly accepted interpretation of the Constitution, an Election Commissioner is disqualified from office if he spends "even a minute" in jail as a result of a criminal conviction. Commit a heinous offense and get bail -- no problem, you're back on the job in the morning. But if you are actually "detained by a warrant of the Court", however briefly, your career is over. This is presumably why the court has denied the bail request.

[¶](#)4. (C) The scene at the courthouse was reportedly chaotic, with EC opponents and supporters competing for attention. According to press accounts, EC Chairman Vassana Permlap

reportedly had to be restrained after his entrance was greeted with lusty boos. Democrat Party Secretary General Suthep Thaugsuban was unable to immediately leave the courthouse because EC supporters pelted him with water bottles at the entrance.

THAKSIN AGREES TO NEW EC

15. (C) All three EC commissioners are likely to appeal their conviction, a process that would probably take some months. The government, however, finally appears ready to abandon them; caretaker PM Thaksin has already publicly agreed to replace them, and has said that the process should take about one month. Due to the lack of a sitting parliament, the Supreme Court will vet and nominate ten candidates, and the caretaker Senate will choose the five new commissioners. (Note. The EC is comprised of five members, but one died last year and a second resigned shortly after the April 2 vote. End Note.)

COMMENT

16. (C) Although the details still have to be worked out, and may be a little messy, it appears that the discredited EC will finally be replaced. This has been one of the chief demands of the opposition parties, although they have already agreed to run in the October 15 election. A new EC with credible commissioners would boost the credibility of the October poll. It is a telling commentary on the degree of political polarization here that such desperate measures were necessary to remove this obstacle. The court's decision not to grant bail will probably be viewed harsh, and based not

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solely on the law, but on the political need to sideline them in order to fulfill the King's commission to "fix the election mess" and ensure free and fair elections in October.

In sum, the court's ruling not to grant bail was a political decision through and through. Although in the eyes of many, the "bad guys" got what they deserved, this was no victory for judicial transparency and the rule of law.

ARVIZU